Before the

Federal Communications Commission

Washington, D.C. 20554

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In the Matter of	)	
	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	
	)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY OF NETWORK ACCESS SOLUTIONS

Rodney L. Joyce
J. Thomas Nolan
SHOOK, HARDY & BACON LLP
600 14th Street, N.W., Suite 800
Washington, DC 20005-2004
(202) 783-8400
Its Attorneys

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SUMMARY

In its Reply, Network Access Solutions ("NAS") responds to arguments in the opening comments of those who oppose either mandatory line sharing or the Commission's spectrum management proposals.

With respect to mandatory line sharing, the opposition of incumbent LECs is based entirely on false legal arguments and misstatements of fact.

- The claim that a frequency unbundled loop is not a network element is false as the plain meaning of Section 3(29) of the Communications Act makes clear.

- The claim that the FCC lacks authority to define a loop's data frequencies as a UNE on grounds that doing so would unlawfully require that incumbent LECs give access to "unbuilt superior" facilities lacks merit since requiring access to data frequencies mandates access to network functionality inherent in existing loop facilities, not unbuilt superior ones.

- There is no validity to the claim that the FCC lacks authority to require that an incumbent LEC provide a loop's data frequencies as a UNE when the incumbent LEC does not use those frequencies to provide DSL service to its own voice customers. By its terms, Section 251(c)(3) of the Act authorizes the FCC to define a non-proprietary network element as a UNE without regard to whether the incumbent LEC uses that particular element.

- The claim that CLECs will not be impaired if the FCC fails to mandate line sharing is absurd. It is not possible to compete effectively with incumbent LECs in the residential DSL market in the absence of line sharing since a CLEC desiring to compete in that market then must sell voice service to a customer desiring its DSL offering whereas its incumbent LEC competitor needs to sell the same customer DSL service alone.

- The fact that CLECs as a group provide DSL service to businesses over more lines than incumbent LECs fails to show that line sharing is

unnecessary for CLECs to compete in the residential DSL market since incumbent LECs have chosen not to compete with CLECs in the business DSL market because business DSL service competes directly with the incumbent LECs' T1 service.

- Each of the supposed "costs" that would result from mandatory line sharing is demonstrably false as NAS shows in its Reply.

The Commission also should adopt the spectrum management policies that it has proposed since opponents of those policies have failed to substantiate any claim they make in opposition to them.

- Neither those who advocate FCC-imposed structural changes in the T1E1.4 working group nor those who advocate FCC selection of a different standard setting group have shown that the benefit of change outweighs the risk.

- There is no merit in proposals that incumbent LECs be allowed to develop their own spectrum management policies since those proposals are based on the undocumented premise that T1E1.4 standards are inadequate.

- There is no basis in the comments to change the Commission's policy to permit deployment of a given DSL technology anywhere if that technology has been deployed in one area.

- The FCC should not adopt the request by some incumbent LECs for authority to terminate a CLEC's advanced service on grounds that the service is causing interference to other services unless the incumbent LEC presents the CLEC with strong evidence of such interference.

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This Reply is divided into two parts. In Part I, we show that the ILECs' opposition to line sharing is based entirely on erroneous legal arguments and misstatements of fact. In Part II, we show that the opposition to the Commission's spectrum management proposals is similarly misplaced.

I. The ILECs' Opposition To Line Sharing Is Based Entirely On False Legal Arguments and Misstatements of Fact

In opening comments, NAS showed that the Commission may mandate line sharing for the provision of interstate special access service using DSL technology either by (i) establishing a new spectrum unbundled loop UNE or (ii) requiring ILECs to provide a new expanded interconnection service that consists of the data frequencies on a loop.[1] While numerous other commenters also approvingly discussed both of these two alternatives, ILECs chose to comment

1. NAS Comments at 8-14. See also NAS's UNE Remand Comments at 20-26 and NAS's UNE Remand Reply at 3-6.

only on the frequency unbundled loop UNE option, and their comments oppose establishment of this new UNE. In this section, we show that none of the arguments they make in opposition to establishment of this new UNE deserves acceptance by the Commission.

A. The Claim that a Frequency Unbundled Loop Is Not a Network Element Is False

Several ILECs claim that it would be unlawful to define specific frequencies on a loop as a UNE because the resulting loop transmission functionality is not a "network element."[2] In fact, a frequency unbundled loop is a network element. Section 3(29) of the Act defines "network element" as either (i) a "facility or equipment [along with the] features, functions or capabilities that are provided by means of such facility or equipment" or (ii) a feature, function, or capability that is provided via specific facilities or equipment. Under this definition, a loop as defined in FCC Rule 319(a) plainly is a network element because it is a facility used to provide any feature, function, or capability that is inherent in that facility itself. But the FCC also may define specific frequencies on a Rule 319(a) loop as a network element since the use of those frequencies to provide DSL service plainly constitutes a feature, function, or capability of a Rule 319(a) loop.

The Supreme Court has affirmed that a feature, function, or capability of a given UNE is itself a network element. It did so in upholding the FCC's finding that a CLASS service

2. Bell Atlantic Comments at 7-8, GTE Comments at 18, US West Comments at 16-17.

(like call waiting or three-way calling) is a network element because it is a feature, function or capability of the separate switching UNE that the agency already had defined.[3]

GTE's bald assertion that a given feature, function or capability of a UNE is itself a network element only if that particular feature is "ancillary . . . to the provision of service" has no support in the text of the Act.[4] It also has no support in the legislative history or in administrative or judicial precedent. And it is inconsistent with the Supreme Court's holding that the FCC has jurisdiction to define a given CLASS feature as a network element since CLASS features often are offered by ILECs as telecommunications services rather than constituting mere ancillary features to the provision of a telecommunications service.

Nor is there merit in the claim by SBC that the FCC lacks authority to define data frequencies on a loop as a UNE on the theory that ILECs can provide these frequencies only if they make extensive modifications to their loop plant.[5] While SBC notes correctly that the Eighth Circuit has empowered the FCC to require that ILECs provide access only to an "existing network --

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3. See First Local Competition Report and Order, 11 FCC Rcd. 15499, 15707-08 (1996) (holding that a CLASS service is a network element but declining to require that ILECs provide any CLASS service as a UNE separate from the switching UNE because doing so "does not appear to be necessary to promote local competition"); AT&T Corp. v. Iowa Util. Bd., 142 L. Ed.2d 834, 854 (1999) (upholding FCC decision).

4. GTE Comments at 18.

5. SBC Comments at 14.

not to a yet unbuilt superior one,"[6] requiring ILECs to make available data frequencies on a loop as a UNE does not require ILECs to provide CLECs with access to an "unbuilt superior" network element. Rather, it requires only that ILECs give CLECs the ability to use a discrete feature, function or capability that is inherent in the existing loop element.

The FCC likewise is not powerless to require that an ILEC provide the data frequencies on a loop as a UNE even if the ILEC itself does not line share in providing DSL service to its own voice service customers.[7] By its terms, Section 251(c)(3) of the Act empowers the Commission to define any given non-proprietary network element as a UNE without regard to whether an ILEC uses that particular element as long as failure to provide that element as a UNE would impair CLECs.

While Section 251(c)(3) authorizes the Commission to require that ILECs provide the data frequencies on a loop as a UNE even when an ILEC does not itself use that UNE in the provision of DSL service, NAS would not object if the FCC were to rule as a matter of policy that an ILEC must permit CLECs to provide DSL service to the ILEC's voice customers over the same loops that the ILEC uses in providing voice service to those customers only if that ILEC line shares when it provides DSL service to its voice service customers. The purpose of mandatory line sharing is to permit the development of competition in the residential DSL market. As explained in our opening comments and as reiterated below, competition in that particular product market is not

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6. Id. (quoting Iowa Util. Bd. v. FCC, 130 F.3d 753, 813 (8th Cir. 1997)).

7. Ameritech Comments at 6-7.

possible without line sharing in a geographic area where the ILEC itself shares lines in providing DSL and voice service. But line sharing is not necessary to the development of residential DSL competition in an area where the ILEC itself does not line share.

B. Arguments Designed to Show that CLECs Are Not Impaired By the Absence of Line Sharing Are Unavailing

ILECs not only contend erroneously that the FCC is powerless to define the data frequencies on a loop as a UNE on the theory that these frequencies are not a "network element", they also assert falsely that the agency lacks authority to define a loop's data frequencies as a UNE on the theory that failure to provide that functionality will not "impair" CLECs.[8] While it is true that the FCC cannot require an ILEC to provide a non-proprietary network element (like the data frequencies on a loop) as a UNE unless failure to do so would impair CLECs in their ability to provide service, ILECs' refusal to provide data frequencies on a loop as a UNE does impair the ability of CLECs to compete with ILECs in the residential DSL market. CLECs are impaired in competing in that market since they cannot compete on the basis of price with the ILECs' residential DSL offerings in the absence of line sharing. ILECs that market DSL service to residential customers uniformly offer that service for less than $40 per month. ILECs are able profitably to provide residential DSL service at less than $40 per month because, by providing voice service to their DSL customers on the same line as the DSL service they can recover their loop

8. Ameritech Comments at 3-5, Bell Atlantic Comments at 9, GTE Comments at 19-22, RTC Comments at 9-10, SBC Comments at 16-17, US West Comments at 20-22, USTA Comments at 2-7.

costs entirely in the price of the voice service. CLECs that provide DSL service cannot effectively compete with ILECs in the residential DSL market in the absence of line sharing since CLECs then must recover loop costs entirely in the price they charge for DSL service. A single loop typically costs more than $15 per month and often more than $20 per month.

The contention that a CLEC can compete effectively with an ILEC in the residential DSL market without line sharing by providing the CLEC's DSL customers with voice service over the same loop it uses to provide DSL service is absurd.[9] It is certainly true that a CLEC can use loops to provide both voice and DSL service to a given residence, but a CLEC cannot compete effectively with the ILEC in the residential DSL market if it operates in this manner. Even if the CLEC were able to enter into an agreement with voice CLECs that gives the DSL CLEC a right to market its DSL offering to all customers of the voice CLEC through a line sharing arrangement, the DSL CLEC could not compete effectively with that ILEC in the residential DSL market since the CLEC's potential DSL customer base would be less than one percent of all residential customers given that less than one percent of all residential customers subscribe to voice service offered by CLECs. Nor would this line sharing DSL CLEC be able to compete effectively with the line sharing ILEC by seeking to market both voice and DSL service to residential consumers given that it then would have to convince these consumers to purchase two services (voice and DSL) in order to compete in the residential DSL market while its ILEC competitor is required to market DSL

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9. Bell Atlantic Comments at 5, GTE Comments at 23-24, US West Comments at 20-25, USTA Comments at 5.

service alone to the more than 99 percent of residences already subscribing to the ILEC's voice service. A CLEC that is forced to convince consumers to change their voice service carrier in order to sign them up to DSL service is at a huge competitive disadvantage to an ILEC that does not need to convince consumers to change their voice service carrier in order to sign them up to DSL service.

While some ILECs claim otherwise, market share data also does not evidence that CLECs can successfully compete with ILECs in the residential DSL market in the absence of line sharing.[10] It is true that some data shows that CLECs presently provide DSL service over more loops than ILECs, but substantially all of the CLECs' DSL customers are businesses, not residences. A CLEC is able to compete with ILECs in the business DSL market in the absence of line sharing even though the price of the CLEC's DSL offering then must recover all of the CLEC's loop costs since (i) loop costs are a far smaller percentage of the price of business DSL service than of residential DSL service and (ii) ILECs have not yet sought to compete in the business DSL market. Loop costs are a far smaller percentage of the price of business DSL service since the price of that service typically is at least triple (and often quadruple or quintuple) the maximum $40 per month price necessary to compete in the residential DSL market given that business DSL service includes features -- like network security, network management, multi-location transport, transport redundancy, and transmission speed -- that residential DSL customers do not need. ILECs have not

10. Ameritech Comments at 3-4, BellSouth Comments at 12-13, GTE Comments at 22-23, SBC Comments at 16, US West Comments at 20-21, USTA Comments at 4.

yet sought to compete with CLECs in the business DSL market since business DSL service competes with the ILECs' existing -- and more expensive -- T1 business.[11]

C. Each "Cost" that ILECs Claim Will Flow From Line Sharing Either Is Unsupported As a Real Cost or Demonstratably Is Not a Real Cost

Not only does the FCC have clear authority to require line sharing, ILECs make no persuasive showing that the costs which would result from line sharing outweigh the benefit. The benefit is clear. Mandatory line sharing is an essential step to the development of competition in the residential DSL market as explained above. By contrast, although ILECs apparently believe the FCC should find that the costs of line sharing are more substantial than this benefit, they are not. The claim that line sharing will artificially discourage ILECs from deploying fiber loop plant out of a fear that the line sharing precedent might lead the Commission to force ILECs to share fiber loops by frequency is ridiculous.[12] In the first place, the assumption that CLECs might at some

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11. BellSouth is wrong in its assertion that it is "unreasonable" for the Commission to seek comments on whether to establish the new frequency unbundled loop UNE until after it issues an order in the UNE remand proceeding establishing the test for deciding whether failure to provide a given network element as a UNE "impairs" CLECs. BellSouth Comments at 9-10. Although the Commission cannot lawfully establish a frequency unbundled loop UNE until it decides how to define "impair," it is not unreasonable for the agency to seek comments on whether to establish a frequency unbundled loop UNE at the same time that it seeks comments on how to define "impair." Moreover, since the FCC reportedly intends to issue an order in the UNE remand proceeding in September that both defines "impair" and applies that definition to other network elements in order to establish several UNEs, the agency should apply that definition to the frequency unbundled loop element at the same time in order to decide whether to establish that element as a UNE too.

12. BellSouth Comments at 14.

undefined point in the distant future seek access to fiber loops on a frequency unbundled basis for the provision of some undefined service is totally speculative. Moreover, the Fifth Amendment to the United States Constitution guarantees that regulators permit ILECs fully to recover any reasonable investment in fiber loops even if the FCC in the future were to require that those loops be frequency unbundled. Nor is there a risk that government regulators would discourage investment in fiber loop plant (or in any other type of loop plant) through the line sharing precedent if the Commission adopts the proposal that NAS made in its opening comments to let ILECs decide for themselves what percentage of a loop's cost to allocate to the frequency unbundled loop UNE (or to the new expanded interconnection service) subject only to the requirement that ILECs attribute to their own DSL offering the same loop cost that they impose on the CLECs for use of the same frequency unbundled loop UNE (or expanded interconnection service). Under this approach, an ILEC believing that the allocation formula it then used was discouraging it from investing in fiber loop plant would be free to change the allocation formula in order to eliminate that investment disincentive.

This latter NAS proposal -- that the FCC permit ILECs to decide what percentage of a loop's total cost to attribute to the frequency unbundled loop UNE (or the new expanded interconnection service) -- eliminates other concerns raised by ILECs too. For example, the claim that mandatory line sharing imposes a large new regulatory cost by requiring the government to set the price of the new frequency unbundled loop UNE (or the new expanded interconnection service)

becomes moot.[13] Also eliminated is the claim that mandatory line sharing creates the risk of leaving ILECs with stranded loop costs as CLECs use the new frequency unbundled loop UNE (or the new expanded interconnection service) to provide both DSL and voice service.[14] If ILECs foresaw the development of stranded investment, they could change their loop cost allocation formula in order to prevent stranded investment subject only to the requirement that they attribute to their own DSL offering whatever loop costs they impose on CLECs.

Moreover, far from preventing ILECs from finding other innovative uses for data frequencies (like packetized voice or business conferencing service activation) as some ILECs claim,[15] mandatory line sharing actually will encourage competition in the development of innovative uses of these frequencies. With mandatory line sharing, an ILEC will have an obvious incentive to develop new services transmitted over a loop's data frequencies since both the ILEC and its CLEC competitors will be allowed to market services over these frequencies to the ILEC's voice customers. Without mandatory line sharing, by contrast, an ILEC will have less incentive to develop new services transmitted over these frequencies since the ILEC then has monopoly power over the provision of innovative new services over these frequencies given that ILECs provide voice service over the vast majority of loops.

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13. USTA Comments at 5.

14. BellSouth Comments at 2-3.

15. Bell Atlantic Comments at 10-11, SBC Comments at 18-19.

There also is no validity in BellSouth's claim that mandatory line sharing imposes a serious cost by eliminating the ability of ILECs to control their voice traffic.[16] While BellSouth notes correctly that a CLEC providing DSL service to a BellSouth voice customer over the customer's voice line would hand off the voice traffic to BellSouth if the voice filter is built into the CLEC's DSLAM, no one has suggested that the FCC mandate that CLECs deploy integrated DSLAM/filter equipment. If CLECs deployed DSLAM equipment that did not contain an integrated filter, they would not hand off the voice traffic to BellSouth since the data traffic then would pass through a voice filter before it reaches the CLEC's DSLAM. Under this arrangement, BellSouth could hand off data traffic to the CLEC, and it would make this hand-off before that traffic reaches the CLEC's DSLAM.

The Commission also should reject the claim that a customer's voice service will receive interference from the DSL service that a CLEC provides to that customer since this claim is premised on the ridiculous assumption that the FCC would allow CLECs to transmit DSL service on any frequencies and at any power they desire.[17] In fact, as every commenter that supports mandatory line sharing has proposed, the Commission should limit CLECs to providing either (i) ADSL service in accordance with existing national industry standards or any future revision of those standards, or (ii) any other type of DSL service in accordance with industry standards applicable to line sharing that are adopted in the future.

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16. BellSouth Comments at 18-19.

17. US West Comments at 14.

The claim that any cost savings to CLECs that result from a lower price for the use of ILEC loops will be offset (perhaps be eliminated) by an increase in OSS costs should not be considered by the Commission because it is entirely speculative (at best) and probably is not accurate.[18] While modifications to an ILEC's existing system to inventory loop plant may be needed in order to facilitate tracking of the service provider on the data frequencies for purposes of provisioning, repair and billing, ILECs offer no evidence of any kind to support their assertion that the cost of these modifications will substantially eliminate the difference in price between a traditional loop UNE on the one hand and the frequency unbundled loop UNE (or the expanded interconnection service) on the other. In fact, it is inconceivable that these modifications will be as costly as ILECs claim.

Nor is there any justification for the Commission to delay the effective date of line sharing until after these OSS modifications have been made as Bell Atlantic's implementation of its new term and bulk discount DSL offering for ISPs shows. Under that offering, ISPs begin this summer providing DSL service to their customers over the same loop that Bell Atlantic uses to provide voice service to those same customers. Significantly, the tariff makes clear that the ISPs are responsible for all aspects of provisioning, maintenance, repair, and billing for the DSL service that they provide over the data frequencies notwithstanding the absence of the OSS modifications described above that eventually will be implemented. Delaying the effective date of line sharing for CLECs until after these OSS modifications have been made also would be inconsistent with the

18. BellSouth Comments at 21-22, GTE Comments at 28-29.

FCC's own precedent given that the agency did not delay the effective date to provide other UNEs and services until after all OSS systems necessary to simplify provisioning of these UNEs and services were in place.

II. The Commission Should Adopt the Spectrum Management Policies that It Proposed Since Commenters Have Failed to Substantiate Any Claim They Make In Opposition to Those Policies

Those who oppose the Commission's spectrum management proposals are as misinformed as opponents of line sharing. Below, we explain why the Commission should reject each argument that has been raised against its spectrum management proposals.

A. Advocates of FCC-Imposed Structural Changes In the T1E1.4 Working Group and Advocates of Selecting a Different Standards Setting Group Have Not Shown that the Benefit of Change Outweighs the Risk

While most commenters conclude that ANSI Working Group T1E1.4 is the appropriate forum for developing spectrum compatibility and spectrum management standards, a few argue that it is not the appropriate forum because it is not fairly representative of the industry as a whole.[19] In fact, the ability of both CLECs and telecommunications manufacturers to participate with ILECs in the work of T1E1.4 helps ensure that T1E1.4 is reasonably representative of the industry and that the standards it sets are fair. Moreover, any FCC-imposed changes in the structure of T1E1.4 could exacerbate the already overly slow pace at which it carries out its work.

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19. See, e.g., ALTS Comments at 21-22 ("The Commission could respond to this problem by promulgating rules directly modifying the membership requirements of T1E1.4").

There also is no merit in selecting a different group on the theory that T1E1.4 is not well suited to prevent interference by developing uniform practices for the deployment of advanced services[20] since it is unnecessary for any national standards setting group to adopt deployment practices. Uniform deployment practices are unnecessary given that any uniform deployment practices would serve substantially the same purpose as the technical standards.

B. There Is No Merit In Proposals that ILECs Be Allowed to Develop Their Own Spectrum Management Policies

The Commission also should reject proposals to let ILECs unilaterally revise T1E1.4 spectrum management standards since the existence of uniform technical standards makes it unnecessary for ILECs to develop binder group management or other spectrum management policies. Prohibiting ILECs from unilaterally adopting spectrum management policies of their own would make it unlawful for GTE to "adjust its standard" to vary from the T1E1.4 standards as it deems appropriate.[21] It also would bar ILECs from requiring the placement of different technologies into different binder groups.[22]

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20. ATIS Comments at 23; Ameritech Comments at 16-17.

21. GTE Comments at 12-13 n.21.

22. See, e.g., Ameritech Comments at 19, Nortel Comments at 8, Sprint Comments at 4. However, the Commission should permit ILECs to segregate service using AMI technology into its own binder group. Most AMI deployment already is restricted to separate cables, and the management practices with respect to these binder groups have been in place for many years. Moreover, since most AMI deployment is used in interoffice trunking, the use of AMI technology is being reduced naturally with each passing year given the rapidly increasing use of fiber optic technologies in interoffice trunking.

The Commission also should reject MCI Worldcom's request that the agency impose binder group management standards on the theory that the T1E1.4 technical standards cannot address the quantities of different PSD types that can be deployed within a given binder group.[23] Since the PSD masks developed by T1E1.4 are based on the extraordinarily conservative assumption that all but one loop in a binder group is used for DSL, they obviously assure that other services within the same binder group will not suffer interference. Even making the optimistic assumption of 50 percent DSL penetration, a 50-pair binder group will contain on average of 25 pairs devoted to DSL, well under the 49 pairs assumed in T1E1.4 standards.

C. There Is No Basis In the Comments to Change the Commission's Policy Permitting Deployment of a Given DSL Technology Anywhere If It Has Been Successfully Deployed In One Area

The FCC likewise should reject Bell Atlantic's request that the Commission change its holding that a given DSL technology is acceptable for deployment everywhere if the technology either has been successfully deployed in one area without significantly degrading the performance of other services or has been approved by a state public service commission.[24] Bell Atlantic's request that the FCC revise this policy is procedurally defective since the Administrative Procedure Act requires that a party desiring to challenge an agency policy do so by petitioning for reconsideration of the order establishing that policy, and Bell Atlantic did not file a petition to reconsider this policy

23. MCI Worldcom Comments at 6.

24. Bell Atlantic Comments at 16.

even though it was established in an earlier order in this proceeding.[25] Moreover, none of Bell Atlantic's arguments for revising the policy is persuasive. First, although the company asserts that the success of a particular new technology may have depended upon specific conditions that existed solely in the binder group in which the technology was deployed,[26] "successful deployment" as that term is used in the FCC's policy requires more than the use of the technology in a single binder group. Instead, a deployment is successful when the ILEC and CLEC agree that the deployment has succeeded and the ILEC is prepared to permit use of the technology within its network on a broad scale. Second, although Bell Atlantic argues that the policy all but guarantees that some users (even if only a few) will suffer some service degradation (even if only minor degradation) upon the introduction of new technologies,[27] the Commission already considered this risk, and correctly decided that the public interest is best served by the timely deployment of advanced services notwithstanding that some instances of interference may result.[28]

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25. First Report and Order in Dkt. No. 98-147 at ¶ 67.

26. Bell Atlantic Comments at 17.

27. Id. In a similar vein, U S West states that "by definition, a service falling outside the service classes defined by T1E1.4 would undermine service reliability and harm the network." U S West Comments at 6 (emphasis in original). This statement has it backwards. While a particular technology will not cause harm to the network if it is deployed according to a standard, the converse is not true. In fact, in many cases a technology deployed at variance from a standard likely will not harm the network given the extraordinarily conservative assumptions that are built into the standard-setting process.

28. First Report and Order, supra, at ¶ 66 n.166.

D. The FCC Should Not Adopt the ILEC Request for Authority to Terminate a CLEC's Advanced Service on Grounds that the Service Is Causing Interference to Other Services Without Presenting the CLEC with Strong Evidence of Such Interference

Finally, the FCC should not give ILECs authority as some request to disconnect a CLEC's service as causing interference without strong documentation that the service actually is causing significant interference.[29] While an ILEC should be permitted to disconnect a CLEC's interfering service, it should not have the right to do so based on a mere suspicion or allegation of interference. Instead, the ILEC should be permitted to disconnect the service only with technical evidence that demonstrates clearly and convincingly that the CLEC's service is causing significant interference. The kind of technical evidence that would suffice for this purpose would consist of measurements, taken before and after the deployment of the CLEC's service, demonstrating an unacceptable level of interference after the deployment where only minimal interference existed before.[30]

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29. GTE Comments at 13 n.22, Sprint Comments at 7, U S West Comments at 10.

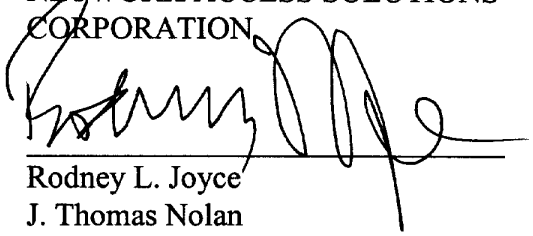
30. The Commission should not delegate the arbitration of disputes over spectrum compatibility standards to the state public service commissions as advocated by the Oklahoma Corporation Commission. See OCC Comments at 10. Doing so would result in a patchwork of inconsistent policies from state to state that would operate as a bar to nationwide or even regional CLEC operation. Instead, the FCC should arbitrate disputes itself or delegate the task to a neutral third party with the requisite technical expertise and no institutional interest in the outcome.

CONCLUSION

The Commission should move quickly to mandate line sharing, and it should require all parties to rely on spectrum management policies adopted by the T1E1.4 Working Group.

Respectfully submitted,

NETWORK ACCESS SOLUTIONS CORPORATION



Rodney L. Joyce
J. Thomas Nolan
Shook, Hardy & Bacon LLP
600 14th Street, N.W., Suite 800
Washington, D.C. 20005-2004
Its Attorneys

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CERTIFICATE OF SERVICE

I certify that a copy of the "Reply of Network Access Solutions in CC Dkt. No. 98-147" was mailed by first class mail to each of the following:

International Transcription Service*
1231 20th Street, N.W.
Washington, DC 20036

Janice M. Myles*
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-C327
Washington, DC 20554

John H. Harwood II
William R. Richardson, Jr.
Matthew A. Brill
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037
(Counsel for U S West Communications, Inc.)

Leon M. Kestenbaum
Jay C. Keithley
Marybeth M. Banks
Sprint Corporation
1850 M Street, N.W., 11th Floor
Washington, DC 20036

Donna M. Epps
Bell Atlantic
1320 North Courthouse Road, 8th Floor
Arlington, DC 22201

Jonathan M. Askin
Vice President - Law
The Association for Local Telecommunications Services
888 17th Street, N.W., Suite 900
Washington, DC 20006

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W., 12th Floor
Washington, DC 20036

Jeffrey S. Linder
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, DC 20006
(Counsel to GTE Service Corporation)

Robert B. McKenna
Jeffrey A. Brueggeman
U S West, Inc.
1020 19th Street, N.W., Suite 700
Washington, DC 20036

Kecia Boney
Richard S. Whitt
Lisa B. Smith
MCI Worldcom, Inc.
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006

John T. Lenahan
Frank Michael Panek
Counsel for Ameritech
2000 W. Ameritech Center Dr. Rm 4H84
Hoffman Estates, IL 60195

John G. Lamb, Jr.
Nortel Networks Inc.
2100 Lakeside Boulevard
Richardson, TX 75081-1599

Stephen L. Goodman
Halprin, Temple, Goodman & Maher
555 12th Street, N.W.
Suite 950, North Tower
Washington, DC 20004
(Counsel for Nortel Networks Inc.)

Robert M. Lynch
Roger K. Toppins
Mark Royer
SBC Communications Inc.
One Bell Plaza, Room 3024
Dallas, TX 75202

Margot Smiley Humphrey
Koteen & Naftalin, LLP
1150 Connecticut Avenue, N.W., Suite 1000
Washington, DC 20036
(Counsel for NRTA)

Stuart Polikoff
Stephen Pastorkovich
OPASTCO
21 Dupont Circle N.W., Suite 700
Washington, DC 20036

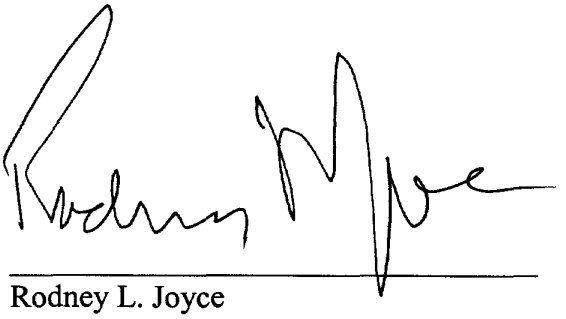
Lawrence E. Sarjeant, Linda Kent
Keith Townsend, John W. Hunter
United States Telephone Association
1401 H Street, N.W., Suite 600
Washington, DC 20005

Stephen L. Earnest
M. Robert Sutherland
BellSouth Corporation
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, GA 30306-3610

Susan M. Miller
Vice President and General Counsel
The Alliance for Telecommunications
Industry Solutions, Inc.
1200 G Street, N.W., Suite 500
Washington, DC 20005

L. Marie Guillory
Jill Canfield
National Telephone Cooperative Assn.
4121 Wilson Blvd., 10th Floor
Arlington, VA 22203

Oklahoma Corporation Commission
Jim Thorpe Building
2101 North Lincoln Blvd.
Oklahoma City, OK 73105



Rodney L. Joyce

July 22, 1999

* Served by hand rather than by mail